

DELINQUENT AND WAYWARD CHILDREN.

NEW MASSACHUSETTS METHODS OF TREATMENT.

1. THE LAW OF 1906 (CHAPTER 413) TOGETHER WITH AN ANALYSIS OF
THE NEW LEGISLATION AND A COMPARISON OF ITS PROVISIONS
WITH THOSE OF FORMER STATUTES.
2. THE LAW (CHAPTER 489, ACTS OF 1906) ESTABLISHING THE
BOSTON JUVENILE COURT.

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“The problem of the children is the problem of the State. As we mould the children of the toiling masses in our cities, so we shape the destinies of the State, which they will rule in turn, taking the reins from our hands. In proportion as we neglect them, or pass them by, the blame for bad government to come rests upon us.”—*Jacob Riis*.

“What are you going to do, my brother, for the higher side of human life? What contribution are you going to make of your strength, your time, your influence, your money, your self, to make a cleaner, fuller, happier, larger, nobler life possible for some of your fellow men?”—*Henry Van Dyke*.

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Massachusetts Prison Association, 56 Pemberton Square, or to the
Massachusetts Civic League, 4 Joy Street, Boston.

DELINQUENT AND WAYWARD CHILDREN.

NEW MASSACHUSETTS METHODS OF TREATMENT.

The legislature of 1906 enacted two new laws in relation to the treatment of juvenile offenders—Chapter 413, "An Act Relative to Delinquent Children," and Chapter 489, "An Act to Establish the Boston Juvenile Court." The former applies to the entire state; the latter creates a special court for juvenile cases within the jurisdiction of the Municipal Court of the city of Boston.

The purpose of both laws is well stated in the first:

"This Act shall be liberally construed to the end that the care, custody and discipline of the children brought before the court shall approximate as nearly as possible that which they should receive from their parents, and that, as far as practicable, they shall be treated, not as criminals, but as children in need of aid, encouragement and guidance."

JUVENILE MISDEEDS NOT NECESSARILY CRIMINAL.

No one who understands youthful wrongdoers needs to be convinced that there is a wide difference between the offences of children and those of adults. A considerable proportion of those committed by children and youth are in no proper sense "crimes." They are violations of city ordinances, and of town by-laws, which forbid in one place acts which are permitted in another. These prohibitions are made necessary by the exigencies of modern life. There is no moral quality in the violations, but under the old laws they were treated like serious crimes.

There is another class of juvenile misdeeds which, in themselves, are criminal—such as larceny, burglary, etc., but few youthful offenders commit these acts from the same motives which impel adults to commit them, or have any clear idea of their seriousness. Their conceptions are those of children or youth—with the errors and defects of immaturity. The civil laws of the state recognize this immaturity in many ways. A boy or girl, even of twenty, is legally incapable of making a binding contract. The enactment of the new legislation will make our civil and criminal laws more consistent than they have been.

The remedy for the defects of the existing system was found to be a change in the statutory relation between children and the

state. Under the law which has been passed, the misdeed of a child is still recognized as something to be dealt with by the courts, not, however, as a crime, to be punished, but as an act which warrants the state in making the offender its ward, with all which that implies of judicial relations and responsibilities.

COMMITMENT OF ARRESTED CHILDREN.

Under the new law, if children are arrested without warrants, they are booked by the police for the offences with which they are charged, as heretofore. But their treatment by the police is changed to some extent. The old law prohibited the commitment of a child under twelve years of age to a police station, to a county prison or to the state farm, pending an examination, in default of bail or for the non-payment of a fine, or upon a conviction of any offence not punishable by death or imprisonment for life. (R. L. 86, § 20, as amended by St. 1902, 314.) The new law (§ 3) raises the age to fourteen. An exception is made in case of a *boy* twelve or over, arrested in the act of violating a law of the Commonwealth, or on a warrant. The arresting officer may commit such a boy to a lock-up, police station or house of detention, but he cannot be committed to a prison for any cause. The power of an arresting officer to commit to a jail a boy or girl twelve years of age or over, who has been arrested by him (R. L. 86, § 18), is so far modified by section 3 (par. 3) that a child under fourteen cannot be so committed.

In order that children may not be detained longer than is necessary after arrest, provision is made for immediate notice to the parent or custodian of a child held in a lock-up, police station or house of detention, and also for notifying a probation officer. If the probation officer is willing to become responsible for the child's appearance for examination, the child may be released to him upon his written request, unless the officer who made the commitment has made a written request for his detention. (§3.) The probation officer has the same power in relation to a child so released to him which he would have if he were surety upon his recognizance. (§ 5.)

Under the old law, every child who had passed his *seventh* birthday was presumed to be capable of committing a crime, and might be held responsible for it. If a boy of seven or above committed an offence, he was complained of and tried in a criminal court (for the "juvenile session" is the session of a criminal court); was required to "plead" to the charge; was "convicted" and "sentenced" as an adult would be, and, if above twelve years old, might be committed to an institution used mainly for adults. The methods of procedure were those used in the trial of the most dangerous criminal, and the record of conviction could never be effaced.

A "delinquent child" is defined by the new law as "any boy or girl between the ages of seven and seventeen years who violates any city ordinance or town by-law, or commits an offence not punishable by death or by imprisonment for life." (§ 1.) When a complaint is to be made against any such boy or girl, its form will depend upon the age of the child. If between seven and fourteen years of age, the initial complaint *must* be for being a "delinquent child." If a child is above fourteen the court *may* institute delinquency proceedings, or, if it shall think it more desirable, may begin criminal proceedings instead. (§ 11.)

If delinquency proceedings are instituted against a child between seven and fourteen they may be dismissed by the court after a hearing, and criminal proceedings may be begun. But this power to substitute criminal proceedings for delinquency proceedings is rigidly limited by law. There is one express condition. The court must be of opinion that both the welfare of the child and "the interests of the public" require that the child should be tried for crime instead of being dealt with as a delinquent child. (§ 11.) It is not probable that there will be many of these exceptional cases in which criminal proceedings will be considered necessary.

When the complaint has been made to the court, the probation officer must make a thorough investigation of the case. This investigation is much broader than that made in cases of adults. He must report "regarding the character of the child, his school record, his home, his surroundings and the previous complaints against him, if any." He must "be present in the court at the trial of the case, and furnish the court with such assistance as shall be required," and at the end of the probation period he must make a report as to the child's conduct. (§ 7.)

DELINQUENCY PROCEEDINGS NOT TO BE DEEMED CRIMINAL.

The proceedings to prove that a boy or girl is a "delinquent child" resemble those by which one is proved to be a "neglected child." "Delinquency" is a condition and not an offence, and the law declares, definitely, that the court proceedings in delinquency cases "shall not be deemed to be criminal proceedings." The allegation is that the boy or girl is a "delinquent child." A plea cannot be required, as a child cannot be "guilty" of delinquency; but proof that an offence has been committed is the essential factor in establishing a condition of "delinquency." When the evidence has been heard, if, in the opinion of the court, the allegation shall have been proved, the child will not be "convicted," but will be "adjudged to be" a "delinquent child." (§ 8.) This

judgment is not that the child has *done* something punishable, but that he *is* a person who needs care, training, restraint, correction.

SUMMONSES AND WARRANTS.

The proceedings between the issuing of the warrant and the trial of the case are similar to those under the old law, but some of the details have been changed. Under the old statute (R. L. 86, § 15) a summons must be issued, instead of a warrant, if a child complained of was under twelve years of age. If he failed to appear, the court might issue a warrant. It was also provided (R. L. 217, § 24) that upon complaint for an offence within the jurisdiction of trial justices, a summons should be issued, instead of a warrant (regardless of the age of the accused), unless, in the judgment of the court, there was reason to believe that he would not appear upon a summons. The new law (§ 3) raises to fourteen the age of a child to whom a summons, instead of a warrant, *must* be issued, and requires it in all cases unless there is reason to believe that the child will not appear upon a summons.

Under the old law (R. L. 86, § 17), a summons to the father, mother, guardian or custodian of the child to attend the trial was usually issued after the child had been brought before the court. This necessitated a continuance of the case. If the child is summoned, the new law (§ 4) directs the issue of a similar summons to the parent, etc., but permits its issue at the same time that the summons is issued to the child, avoiding postponement in some cases.

PROVISIONS REGARDING CONTINUANCES AND APPEALS.

Under the old law large numbers of children were committed to jail when cases were continued for examination, or for trial in the superior court. The new law remedies this by providing (§ 5) that a child under fourteen, who is unable to furnish bail, "shall be committed to the care of the State Board of Charity, or of a probation officer." This raises the age from twelve to fourteen, and permits a probation officer, as well as the State Board, to provide for the child's safe keeping and for its appearance.

If a child fourteen or more years of age is unable to furnish bail for trial or on an appeal, the court must make immediate inquiry whether the child will probably appear if placed in care of a probation officer, and unless it is of opinion that the child will not appear, it must commit him to such officer. Under these provisions, there can be no commitments of children to jail, excepting a comparatively few who cannot be trusted to appear if committed to the probation officer.

The section (6) in relation to sessions for the trial of children compels the exclusion of minors so that they may not hear trials of other cases than their own, unless they are witnesses, or, in the opinion of the court, their presence is necessary in the interests of justice. As far as it is practicable, sessions for children must be held in rooms not used for the trial of criminal cases.

DISPOSAL OF CASES OF DELINQUENT CHILDREN.

The boy or girl who has been adjudged to be a delinquent child becomes, practically, the ward of the court. The interest of the child is to be sought in the disposal of the case. If the home is bad, the child may be put into a better one. It cannot be committed to a jail or house of correction, but if a state law has been violated, may be sent to any other institution to which it might have been committed under the old law—to the Lyman or the Industrial School (in Boston to the Suffolk School for Boys) or to one of the state reformatories. But the spirit of the law requires that this should not be done until the court, in the use of all its machinery, has exhausted its power for good; has done its utmost for the restoration of the delinquent without commitment. It is believed that the restraints of supervision by probation officers will prove far more effective than small money penalties, which, under the old law, if not paid, were enforced by the imprisonment of children with adult criminals.

NEW CORRECTIONAL POWERS GIVEN TO COURTS.

The new law gives to the court important new powers over juvenile probationers. Though it may not fine a boy or girl, in the first instance, for delinquency or waywardness, the power to use the fine as a means of securing good behavior is merely delayed. It may impose upon the probationer such conditions as it chooses,—whatever will secure proper conduct. If the child so placed on probation fails to keep the conditions imposed, the court may impose a fine for the violation. (§ 9.) This power to enforce good conduct after a boy or girl has been found to be a delinquent or wayward child seems likely to be more valuable than the imposition of a fine for a past misdeed. The old law punishes an offence already committed, and the court had no farther control of the offender; under the new law the impending fine for misconduct while on probation gives the court a control of the probationer, and puts upon the probation officer the duty of supervision.

The exercise of the strictly penal powers of the court is discouraged and made difficult by the new law, but its *correctional*

powers are greatly enlarged. The emphasis is placed upon a child's future conduct, instead of upon his past,—as it was when penalties were imposed, under the old system.

REPARATION AND RESTITUTION.

Section 12 provides for the application of a power which has been much needed. No provision has existed for directly compelling restitution or reparation by the order of the court. If a fine was imposed it went into the public treasury, and not to the injured person. The new law provides (§ 12) that if a child has committed an act involving liability in a civil action, the court may require, as a condition of probation, that he shall make restitution or reparation to the injured person. Some courts accomplished this purpose under the old law by ordering a continuance, with the understanding that if reparation or restitution was made within a certain time, that fact would be taken into consideration in the final disposition of the case. The new law gives statutory recognition to the principle, and provides machinery for securing the desired result.

The moral effect of requiring a child to make restitution is of great value, especially in cases of malicious and mischievous wrong-doing. If a boy who has stolen is compelled to make restitution to the owner, or the boy who has injured the person or property of another is compelled to make reparation, he may learn a lesson far more valuable than that which comes from paying a fine into the public treasury for violating the law. It will emphasize his relations to others, as well as to the state.

PARENTAL RESPONSIBILITY FOR DELINQUENCY OF CHILD.

The responsibility of parents for the conduct of their children is recognized in Section 13, which authorizes the punishment of any parent who is found to have been responsible for the waywardness or delinquency of a boy or girl who has been adjudged to be a wayward or delinquent child. This provision, extending to others as well as to parents, has been used very effectively in many other states. Much of the juvenile crime is due to the indifference and neglect of parents. In some cases it is due to direct training in crime on the part of parents. The fathers and mothers cause the juvenile crime, and the penalties are imposed upon the children. This section will enable the courts to place the responsibility where it belongs,—upon the parents.

A NEW CLASS—WAYWARD CHILDREN.

The old law provided for dealing with "juvenile offenders" and with "neglected children." A neglected child is defined as one under sixteen years of age, who "by reason of orphanage or

of the neglect, crime or drunkenness, or other vice of its parents, is growing up without education or without salutary control, or in circumstances exposing him to lead an idle or dissolute life, or is dependent upon public charity." (Acts of 1903, chap. 334, § 1.)

But all who know child-life are aware that there are boys and girls who are on the road to criminality who cannot be proved to be "neglected" in the sense in which the word is used in the statute. The child has a home; its parents are not criminals; but its associations and surroundings are bad, and it is only a question of time when it will commit a crime. Though the result is almost certain, little could be done.

The new law creates a new class with which the courts may deal. "A boy or girl between seven and seventeen years of age who habitually associates with vicious or immoral persons, or who is growing up in circumstances exposing him or her to lead an immoral, vicious or criminal life," is a "wayward child" in the eye of the law. It is not necessary to wait for the boy or girl to commit crime. A complaint for "waywardness" instead of "delinquency" may be made, and the child may be brought into court. The methods of procedure are the same as in delinquency cases. Of course, the child cannot be punished, but it can be placed under restraint. If it is adjudged a "wayward child" the court may place it in the care of the probation officer, for such time and upon such conditions as may seem proper, or may deal with it in the manner provided by law for the disposal of the case of a neglected child.* (§ 8.)

The purpose of authorizing the court to deal with a "wayward" child is purely preventive. The State asserts its right to guard the child from the peril of becoming a criminal. Sometimes a case can be made against a boy or girl whose parents have done their best, but are unable to control their child. Sometimes against one who is allowed to have his own way, regardless of consequences. The new provision may be made specially effective in cases of girls whose conduct, while not criminal, exposes them to serious temptations.

NEW RELATIONS BETWEEN COURTS AND JUVENILE OFFENDERS.

A review of the provisions of the new law reveals the fact that it imposes upon the courts many new duties and responsibilities in relation to juvenile offenders. The commission of an

*The powers of the court in case of a neglected child, and applicable to a "wayward child," are very broad. The court may continue the complaint and may allow the child to be placed in the care of some suitable person or charitable corporation, upon his or its furnishing surety for the further appearance of the child; or may make such further orders with reference to the care and custody of the child as may conduce to its best interests, or may commit the child to the custody of the State Board of Charity during its minority, or for a less time. (Acts of 1903, chap. 334, § 3.)

offence which brings a child before the court establishes a new relation between them which does not end, as now, with the imposition of a penalty. The presumption of the new law is that such a child needs the supervision of the court in his own home, and the helpful restraint and inspiration of the probation officer. The system centers about this officer, who must be in close contact with the child and its family through the probation period, which may be made as long as the court considers necessary.

In the performance of his duties and of his trust the probation officer must have assistance. The most important aid must come from those who administer the schools. The schools and the courts must co-operate. The work cannot be accomplished unless they are in the closest relations, so that the court may know the school record, from week to week. The probation officer must have the help of the teacher.

The new system also affords new opportunities for the co-operation of volunteer workers. In other states this service has been rendered by large numbers of persons, who have undertaken the oversight and supervision of probation children, under the direction of the court, and in co-operation with the probation officer. These volunteers have rendered invaluable aid, especially as friendly visitors in the homes, supplementing the official work of the paid probation officers. Few opportunities of usefulness exceed in value those afforded by this work, and volunteers, when carefully selected and wisely directed, are of very great assistance to the court, in its new duty of removing the causes of juvenile crime; of improving the surroundings and associates of court children and of directing them into right ways.

The duty of rendering such service is suggested by the declaration of Judge Mack of the Chicago Juvenile Court, who says: "When every successful man, every man who has been successful in the best sense, takes one child to look after and guide through life, the juvenile delinquency question will be solved."

The latest Massachusetts legislation, by its provisions for the judicial treatment of delinquent and wayward children, puts the Commonwealth in advance of all other states. The great need is of a public sentiment which shall support the courts in their administration of the law, together with the co-operation of many individuals in behalf of those whose necessities are so great.

AN ACT RELATIVE TO DELINQUENT CHILDREN.

[ACTS OF 1906, CHAPTER 413.]

SECTION 1. The word "court," whenever used in this act, shall be construed to mean a police, district or municipal court, or a trial justice.

The words "probation officer" shall be construed to mean a probation officer or assistant probation officer of the court having jurisdiction of the pending case.

The term "delinquent child" shall be construed to mean any boy or girl between the ages of seven and seventeen years, who violates any city ordinance or town by-law, or commits an offence not punishable by death or by imprisonment for life.

The words "wayward child" shall be construed to mean a boy or girl between seven and seventeen years of age who habitually associates with vicious or immoral persons, or who is growing up in circumstances exposing him or her to lead an immoral, vicious or criminal life.

SECTION 2. This act shall be liberally construed to the end that the care, custody and discipline of the children brought before the court shall approximate as nearly as possible that which they should receive from their parents, and that, as far as practicable, they shall be treated, not as criminals, but as children in need of aid, encouragement and guidance. Proceedings against children under this act shall not be deemed to be criminal proceedings.

SECTION 3. If complaint is made to any court that a boy or girl between the ages of seven and seventeen years is a wayward child or a delinquent child, said court shall examine on oath the complainant and the witnesses, if any, produced by him, and shall reduce the complaint to writing, and cause it to be subscribed by the complainant.

If said child is under fourteen years of age, said court shall first issue a summons requiring it to appear before such court at the time and place named therein, and such summons shall be issued in all other cases, instead of a warrant, unless, in the judgment of the court, there is reason to believe that he or she will not appear upon a summons, in which case, or in any case in which a child has been summoned as aforesaid and did not appear, said court may issue a warrant reciting the substance of the complaint, and requiring the officer to whom it is directed forthwith to take such child and bring it before said court to be dealt with according to law, and to summon such witnesses as shall be named therein to appear and give evidence at the examination.

A child under fourteen years of age shall not be committed to a lock-up, police station or house of detention, to a jail or house of correction, to the state farm, or the house of correction at Deer Island in the city of Boston, pending an examination, in

default of bail, or for the non-payment of a fine, except as provided in sections five and nine, or upon conviction of any offence not punishable by death or imprisonment for life: *provided*, that a boy twelve years of age or over, arrested in the act of violating a law of the Commonwealth, or on a warrant, may, in the discretion of the arresting officer, be committed to a lock-up, police station or house of detention.

Whenever a child under seventeen years of age has been committed to a lock-up, police station or house of detention the probation officer and at least one of its parents, and, if there is no parent, then the person with whom such child resides, shall be notified at once of said commitment. The officer of the place of custody in which such child is confined, on the written request of the probation officer, shall release such child to him, unless the officer who made the commitment shall make a written request for his detention. Said probation officer shall notify such child of the time and place of the hearing of its case.

SECTION 4. If a boy or girl is brought before such court upon a warrant, or has been summoned to appear, as provided in the preceding section, a summons shall be issued to at least one of its parents, if either of them is known to reside within the city or town where such child was found, and, if there is no such parent, then to its lawful guardian, if there is one known to be so resident, and if not, then to the person with whom such child resides, if known. Said summons shall require the person upon whom it is served to appear at a time and place stated therein, and show cause why such boy or girl should not be adjudged a wayward or delinquent child, as the case may be. If there is no such parent, guardian or person who can be summoned as aforesaid, the court may appoint a suitable person to act in behalf of such child.

If such child is summoned, the time for appearance fixed in the summons to a parent, guardian or other person, as herein provided, shall, when practicable, be the same as that fixed for the appearance of said child.

A summons required by this act, unless service thereof is waived in writing, shall be served by a constable or police officer, by delivering it personally to the person to whom it is addressed or by leaving it with a person of proper age to receive the same, at the place of residence or business of such person; and said constable or officer shall immediately make return to the court of the time and manner of the service.

If the court shall be of opinion that the interests of an alleged wayward or delinquent child require the attendance, at any proceedings, of an agent of the state board of charity, and shall request such attendance, of said board, an agent thereof shall attend such proceedings, to protect the interests of said child.

SECTION 5. Hearings upon cases arising under this act may

be adjourned from time to time. A child that has been adjudged by the court a wayward or delinquent child may appeal to the superior court, and such child shall, at the time of such adjudication, be notified of its right to appeal. The appeal, if taken, shall be entered, tried and determined in like manner as appeals from trial justices in criminal cases. The provisions of section thirty-four of chapter two hundred and seventeen, and of section twenty-two of chapter two hundred and nineteen of the Revised Laws, relative to recognizances in cases continued or appealed, shall be applicable in cases arising under this act.

A child under fourteen years of age, who has been held for examination or trial, or to prosecute an appeal to the superior court, if unable to furnish bail, shall be committed to the care of the state board of charity or of a probation officer. The person to whose care it is so committed shall provide for its safe keeping and for its appearance at its examination or trial, or at the prosecution of its appeal.

A child fourteen or more years of age, so held, if unable to furnish bail shall be so committed to a probation officer, unless the court, upon immediate inquiry, shall be of opinion that, if so committed, such child will not appear at such examination or trial, in which case said child may be committed to jail.

Said probation officer shall have all the authority, rights and powers, in relation to a child committed to his care under this section, and in relation to a child released to him, as provided in section three, which he would have if he were surety upon the recognizance of such a child.

SECTION 6. Courts shall designate suitable times for the hearing of cases of juvenile offenders, and wayward or delinquent children, which shall be called the session for children, for which a separate docket and record shall be kept. Said session shall be separate from that for the trial of criminal cases, and as far as practicable shall be held in rooms not used for such trials. No minor shall be allowed to be present at any such hearing unless his presence is necessary, either as a party or as a witness, or, in the opinion of the court, in the interests of justice.

SECTION 7. Every case of a wayward child or a delinquent child shall be investigated by the probation officer, who shall make a report regarding the character of such child, his school record, his home, his surroundings and the previous complaints against him, if any. He shall be present in court at the trial of the case, and furnish the court with such information and assistance as shall be required. At the end of the probation period of a child that has been placed on probation, the officer in whose care it has been shall make a report as to its conduct during such period.

SECTION 8. At the hearing of a complaint against a child the court shall examine such child, and any witnesses that appear, and take such testimony relative to the case as shall be produced.

If the allegations against a child are proved, it may be adjudged a wayward or delinquent child, as the case may be.

If a child is adjudged a wayward child, the court may place it in the care of a probation officer for such time and upon such conditions as may seem proper, or may deal with it in the manner provided by law for the disposal of the case of a neglected child.

If a child is adjudged a delinquent child, the court may place the case on file, or may place the child in the care of a probation officer for such time and on such conditions as may seem proper. If it is alleged in the complaint upon which the child is so adjudged, that a law of the Commonwealth has been violated, the court may, with the consent of the state board of charity, authorize said board to take and indenture such child, or place it in charge of any person, and if at any time thereafter such child proves unmanageable, to commit such child, if a boy under fifteen years of age, to the Lyman school for boys, or if a girl under seventeen years of age, to the state industrial school for girls, until such child attains the age of twenty-one years. Said board may provide for the maintenance, in whole or in part, of any child so indentured or placed in charge of any person.

The court shall also have power to commit such delinquent child to any institution to which it might be committed upon a conviction for such violation of law, excepting a jail or house of correction, and all laws applicable to a boy or girl committed upon such a conviction shall apply to a delinquent child committed under this section.

SECTION 9. If a child has been placed in care of a probation officer, as provided in this act, said officer, at any time before the final disposition of the case, may arrest such child without a warrant and take him before the court, or the court may issue a warrant for his arrest. When such child is before the court, it may make any disposition of the case which it might have made before said child was placed on probation, or may continue or extend the period of probation.

If the court shall find that such child has violated the conditions of its probation, it may impose a fine, not exceeding five dollars, and if the fine is not paid at once, in whole or in part, may order that said child stand committed to a jail until the same is paid, but not exceeding five days. Said court shall suspend the execution of said order and continue the probation for such time as it shall fix, unless in the opinion of the court such child will default. Said fine may be paid to the probation officer, whereupon the order for commitment shall be void. If at the end of the period of such suspension the probation officer shall report that said fine is unpaid, the court may extend such period, or place the case on file, or revoke the suspension of the execution of the order of commitment. If the fine, or any part thereof, is paid to the probation officer, he shall give a receipt therefor,

shall keep a record of the payment, shall pay the same to the clerk of the court at its next session, and shall keep on file the clerk's receipt therefor.

SECTION 10. A disposition of any child under this act, or any evidence given in such case, shall not, in any proceeding, in any court, be lawful or proper evidence against such child for any purpose, excepting in subsequent criminal proceedings, or subsequent cases of delinquency or waywardness against the same child.

SECTION 11. If it shall be alleged in a complaint made under this act that a boy or girl has committed an offence against a law of the Commonwealth, or has violated a city ordinance or town by-law, and the court shall be of opinion that his or her welfare, and the interests of the public, require that he or she should be tried for said offence or violation, instead of being dealt with as a delinquent child, the court may, after a hearing on said complaint, order that it be dismissed. Criminal proceedings shall not be begun against any child between the ages of seven and fourteen, except for an offence punishable by death or imprisonment for life, unless proceedings against it as a delinquent child have been begun and dismissed as aforesaid.

SECTION 12. If, in adjudging a person to be a delinquent child, the court shall find, as an element of such delinquency, that he has committed an act involving liability in a civil action, and such delinquent child shall be placed on probation, as herein provided, the court may require, as a condition thereof, that he shall make restitution or reparation to the injured person, to such an extent and in such sum as the court shall determine. If the payment is not made at once, it shall be made to the probation officer, who shall give a receipt therefor, shall keep a record of the payment, shall pay the money to said injured person, and keep on file his receipt therefor.

SECTION 13. If a boy or girl is adjudged to be a wayward child or a delinquent child, as defined by this act, a parent of such child who is found to have been responsible for such waywardness or delinquency, shall be punished by a fine of not more than fifty dollars, or by imprisonment in jail for not more than six months.

SECTION 14. The state board of charity shall have authority to supervise the probation work for wayward and delinquent children, and to make such inquiries as it considers necessary in regard to the same, and in its annual report may make such recommendations as it considers advisable for the improvement of methods of dealing with such children.

SECTION 15. All acts and parts of acts inconsistent with this act are hereby repealed.

SECTION 16. This act shall take effect on the first day of September in the year nineteen hundred and six.

Approved May 24, 1906.

THE BOSTON JUVENILE COURT.

All the provisions of the general delinquent law apply to the Boston Juvenile Court—except the section authorizing the punishment of parents for contributing to their children's waywardness or delinquency. The jurisdiction of the Court is confined to persons under seventeen and, therefore, parents of children brought before the court must be punished in the old Municipal Court.

The statute creating the Juvenile Court contains the following special provisions for the handling of children's cases:—

1. It provides a judge, a clerk and two probation officers who have no official duties except to deal with children's cases.

2. So far as possible all cases shall be heard in the judge's private room, and all persons whose presence, in the opinion of the court, is not necessary, shall be excluded from the room. The general delinquent law provides merely that children's cases shall not be heard in an ordinary court room; it does not provide for the exclusion of anybody from the hearings.

3. The justice may appoint as many deputy probation officers as he may deem desirable. This does not, however, give the deputies any authority which would not be possessed by any ordinary citizen who might undertake to assist any other court by obtaining information or giving oversight, and it is therefore merely a formal sanction by the legislature of the use of volunteers which has always been made to some extent.

4. Any officer arresting a child in the jurisdiction of the Juvenile Court may release the child on the written promise of the parent, the guardian, or any reputable person, to have the child in court when wanted.

5. The superintendent of schools and all teachers are required to give the court any information desired at any time in regard to the attendance, conduct and standing of any pupil brought before the court.

AN ACT TO ESTABLISH THE BOSTON JUVENILE COURT.

[ACTS OF 1906, CHAPTER 489.]

SECTION 1. A court is hereby established in the city of Boston, to be known as the Boston Juvenile Court.

SECTION 2. Said court shall consist of one justice and two special justices, who shall be appointed by the governor, with the advice and consent of the council. There shall be a clerk of said court who shall also be appointed by the governor, with the advice and consent of the council, for a term of five years. In case of the absence, death or removal of the clerk, the court may appoint a clerk *pro tempore*, who shall act until the clerk resumes his duties, or until the vacancy is filled. The said court shall have a proper seal, and all processes issuing therefrom shall be under the seal of the court, shall be signed by the clerk, and shall bear the teste of the justice of the court, unless his office is vacant, in which case it shall bear the teste of a special justice of the court.

SECTION 3. The justice of the said court shall be paid a salary of three thousand dollars per annum. The special justices shall be paid for each day's actual service at the same rate as the rate by the day of the salary of the justice of the court; but compensation for services in excess of thirty days in any one calendar year shall be deducted by the county treasurer from the salary of the justice of the court. The clerk shall receive an annual salary of fifteen hundred dollars. The said salaries shall be paid by the county of Suffolk, in the same manner as the salaries of the justices, special justices and clerks of the municipal court of said city are now paid. Suitable rooms for the sittings of the court and for the officers thereof shall be provided in the Suffolk county court house.

SECTION 4. All the jurisdiction, authority and powers vested in the municipal court of the city of Boston or the justices thereof, or which are conferred upon municipal courts by chapter four hundred and thirteen of the acts of the year nineteen hundred and six, which involve the trial, sentencing, commitment or other disposal of a child under the age of seventeen years, or the receiving of complaints and the issuing of summonses, warrants or other processes in relation thereto, or which relate to the care of neglected children, under chapter three hundred and thirty-four of the acts of the year nineteen hundred and three, and acts in amendment thereof or in addition thereto, are hereby trans-

ferred to, and vested in, the court hereby established, and in the justice and special justices thereof; and the said court shall have jurisdiction over such other matters as may come before it under this act. All the provisions of law which relate to police, district or municipal courts, to the justices, special justices and clerks thereof, or to the rights, duties and liabilities of parties to proceedings therein, shall, so far as they may be appropriate, apply to said court, its justice, special justices and clerk, and to the parties to proceedings therein, except as herein otherwise provided. The court hereby established may continue from time to time the hearing in respect to any child given under the provisions of this act, and may commit such child to any institution to which a district or municipal court in the city of Boston is now, or may hereafter be, authorized to commit such child, or may impose any penalty which said courts are authorized to impose. The court may from time to time make general rules in reference to, and provide forms of, procedure.

SECTION 5. So far as possible the court shall hear all cases in chambers; and all persons, whose presence, in the opinion of the court, is not necessary, shall be excluded from the room.

SECTION 6. The justice of the court hereby established shall appoint two probation officers, each of whom shall hold office during the pleasure of the said justice, and shall have general authority to serve such process as may be directed to either of them by the court. The provisions of chapter two hundred and seventeen of the Revised Laws, and of all other statutes now or hereafter applicable to probation officers connected with courts in the city of Boston, shall, so far as they may be appropriate, apply to said probation officers, except as herein otherwise provided. The justice may also appoint as many deputy probation officers, without salary, as he may deem desirable. They shall assist probation officers in such ways as the court may direct in making investigations of cases of children against whom complaints have been made, and in the care of children who have been placed on probation.

SECTION 7. In case a warrant is issued by the court for a child's arrest, or in case a child between the ages of seven and seventeen years is arrested without a warrant, as provided by law, in order to avoid the incarceration of the child, if practicable, the officer to whom said warrant is delivered, or who has arrested the child without a warrant, as the case may be, may, unless the justice or magistrate of the court issuing such warrant has otherwise directed in the warrant, accept the written promise of the parent, guardian or person with whom it is stated that said child resides, or any other reputable person, to be responsible for the presence of said child in court at the time and place when the child is to appear, and at any other time to which the hearing in the case may be continued or adjourned by the court. Nothing

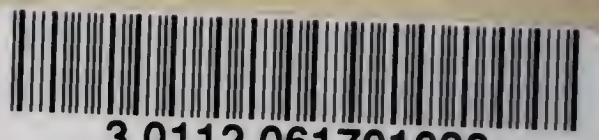
herein contained shall be construed to prevent the admitting of said child to bail, in accordance with sections twenty-nine and thirty of chapter two hundred and seventeen of the Revised Laws.

SECTION 8. It shall be the duty of the superintendent of the Boston public schools, and of any teacher therein, and of the person, society or corporation in charge of any private school, and of the teachers therein, to furnish to the said court from time to time any information and reports requested by the justice thereof relating to the attendance, conduct and standing of any pupil under his, her or its charge, if said pupil is at the time under the charge of the court hereby established.

SECTION 9. All acts and parts of acts inconsistent herewith are hereby repealed.

SECTION 10. This act shall take effect upon its passage, so far as the appointing, commissioning and qualifying of the justice, special justices and clerk of the court hereby established are concerned; and it shall be in full force and effect, and the authority and jurisdiction of the court hereby established and of the probation officers thereof shall begin, on the first day of September in the year nineteen hundred and six, except that the municipal court of the city of Boston shall have power to dispose of all cases of juvenile offenders or neglected children which may be pending before it when this act takes full effect.

Approved June 15, 1906.



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